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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
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7 CARLOS HERNANDEZ, et al.,
8 Plaintiffs,
9 v.
10 PAUL D. GUGLIELMO, etc.,
11 Defendant.

2:09-cv-0830-LDG-GWF

12 **ORDER**

13 The court addresses possible confusion relating to the dispositive briefing in this matter.
14 By order filed February 3, 2010, the court denied defendant's motion for summary judgment
15 without prejudice to its refiling after the close of discovery on March 8, 2010, the dispositive
16 motion deadline on April 8, 2010 (#41). Defendant did not refile his motion for summary
17 judgment; however, on April 22, 2010, the parties filed a joint status report in which they
18 indicated that they were awaiting this court's decision on plaintiffs' motion for class certification
19 before submitting a revised discovery plan and scheduling order (#38).

20 Pursuant to Fed. R. Civ. P. 23(c)(1), the court is given latitude to consider class
21 certification "at an early practicable time." In this particular case, and as defendant suggested in
22 his opposition to class certification, the ruling on summary judgment could render the motion for
23 class certification moot, and the court determines that addressing the issues raised on summary
24 judgment should precede consideration of class certification. This is especially manifest as
25 plaintiffs have recently filed as new authority in support of their motion for class certification a
26 summary judgment decision on the merits which brings the court's attention to a ruling on a

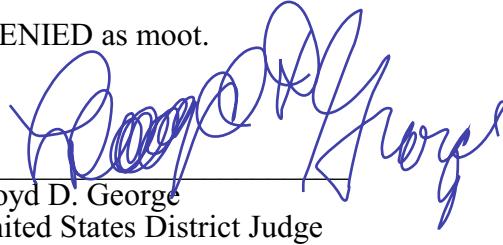
1 summary judgment ruling in a Fair Debt Collection Practices Act case (#44). Nevertheless, as
2 indicated in the status report, the parties anticipate further discovery and dispositive motion
3 practice after a ruling on class certification. Since discovery and dispositive motion practice shall
4 be completed before the class certification consideration,

5 THE COURT HEREBY ORDERS that plaintiffs' motion for class certification (#27) is
6 DENIED without prejudice to its reinstatement at plaintiffs' request after the close of any
7 discovery and after the ruling on dispositive motions.

8 THE COURT FURTHER ORDERS that the parties shall submit a revised discovery plan
9 and scheduling order within thirty (30) days of the filing of this order.

10 THE COURT FURTHER ORDERS that defendant's motion for continuance of time to file
11 response to the motion for class certification (#33) is DENIED as moot.

12 Dated this 23 day of September, 2010.



Lloyd D. George
United States District Judge

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